

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of )

Reform of the Interstate Access )  
Charge Rules )

RM-8356

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

REPLY COMMENTS OF BELL ATLANTIC<sup>1</sup>

Every commenter agrees that access charge reform is needed. While there is disagreement on the type of proceeding and the specifics of USTA's proposal,<sup>2</sup> the unanimity of opinion on the need for reform underscores the urgent need for Commission action.

With this clear consensus, there is no justification for delaying access charge restructuring through a two-step regulatory process, as some parties urge.<sup>3</sup> The Commission has already received three sets of comments on access reform with near-unanimity of opinion that reform is needed or long-overdue, and an

<sup>1</sup> The Bell Atlantic telephone companies ("Bell Atlantic") are The Bell Telephone Company of Pennsylvania, the four Chesapeake and Potomac telephone companies, The Diamond State Telephone Company and New Jersey Bell Telephone Company.

<sup>2</sup> United States Telephone Association ("USTA"), Reform of Interstate Access Charge Rules, Petition for Rulemaking (filed Sept. 17, 1993) ("USTA Petition").

<sup>3</sup> See, e.g., MCI Telecommunications Corporation, Comments ("MCI") at 1-3 (inquiry, then rulemaking); Comments of United and Central Telephone Companies at 2 (inquiry, then rulemaking); Comments of the Information Technology Association of America at 3-4 (reform jurisdictional separations before addressing access).

inquiry at this late date would only postpone final action.<sup>4</sup> AT&T's proposal for piece-meal proceedings would perpetuate the same problem that exists today -- a lack of coordinated rule changes in light of dramatic changes in the marketplace and in the Commission's policies.<sup>5</sup> Accordingly, separations and universal service issues should be combined or coordinated with the access charge proceeding.

Several parties criticized USTA's proposed regulation of access services that become sufficiently competitive within a geographical market, claiming that local exchange carriers ("LECs") retain a near-monopoly or that switched access competition cannot occur until the LECs are subject to competition in the local exchange.<sup>6</sup> These claims represent a misunderstanding of the switched access marketplace. Bell Atlantic has shown that its special access services are already subject to significant

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<sup>4</sup> The Commission received comments September 2, 1993 on the National Association of Regulatory Utility Commissioners' Petition for Notice of Inquiry Addressing Access Issues; on September 23, 1993 on the FCC Access Reform Task Force, "Federal Perspectives on Access Charge Reform;" and November 1, 1993 on USTA's petition.

<sup>5</sup> See Comments of American Telephone and Telegraph Company ("AT&T") at 8-10.

<sup>6</sup> For example, CompTel asserts that the switched and special access submarkets differ markedly, and that switched access cannot be competitive until competitors reach the end user. Opposition of Competitive Telecommunications Association ("CompTel") at 8-10. See also MCI at 4-6, Comments of Sprint Communications Co. ("Sprint") at 4-7, Opposition of Hyperion Telecommunications ("Hyperion") at 4-5.

competition.<sup>7</sup> The amount of switched access competition is also growing rapidly. Interexchange carriers ("IXCs") can provide their own access facilities to the LECs' serving wire centers (e.g. they can establish "closet POPs") or take services from competitive access providers ("CAPs").<sup>8</sup> Moreover, the Commission recognized the similarity between switched and special access when it specified the same basic rate structure and pricing rules for each.<sup>9</sup>

The IXCs' marketplace activities also belie CompTel's claim that they treat switched and special access services markedly different. IXCs use identical LEC facilities in connection with their own special and switched services. In fact, they often use the same LEC facility to provide both, a process called "ratcheting." Accordingly, there is no basis for the parties' claim that there is virtually no switched access competition.

Even if those claims were true, however, USTA does not propose to streamline regulation until certain competitive thresholds are met. Moreover, contrary to the commenters' allegations, USTA does not propose to deregulate LEC services.

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<sup>7</sup> See, e.g., Letter from Marie Breslin, Director, FCC Relations, to Ms. Donna Searcy, Secretary, Federal Communications Commission (June 12, 1992) ("June 12 Letter").

<sup>8</sup> See Comments of Bell Atlantic at 2. The impending advent of expanded switched interconnection will accelerate competition for switched access services.

<sup>9</sup> *Expanded Interconnection with Local Telephone Company Facilities, Second Report and Order and Third Notice of Proposed Rulemaking*, CC Docket No. 91-141, FCC 93-379 (rel. Sept. 2, 1993) at ¶¶ 72, 79.

USTA proposes only to tailor the degree of regulation to the actual amount of competition experienced in the marketplace. This will result in a re-balancing of the regulatory requirements as the amount of competition continues to grow.

Bell Atlantic considers USTA's proposed thresholds as a reasonable basis for a Commission rulemaking but recognizes that some will urge more restrictive standards. Whatever standard the Commission ultimately adopts, however, the current level of access competition has no relevance to USTA's proposal.

The parties also fail to address the continued restrictions on the Bell operating companies ("BOCs") that their competitors do not share. The BOCs may not offer interexchange service. This prevents nationwide marketing and discounts that other carriers routinely offer.<sup>10</sup> They may not manufacture telecommunications equipment. They uniformly are carriers of last resort with an obligation to serve all customers.<sup>11</sup> And they are subject to much closer regulatory scrutiny at both the federal and state levels than are their competitors. These continued detriments guarantee that the LECs will not be able to play on a level field.

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<sup>10</sup> Hyperion erroneously claims that CAPs cannot offer volume and term discounts. Hyperion at 12. MFS, however, has offered such discounts for at least four years, and other CAPs have followed suit. See June 12 Letter at Exh. A.

<sup>11</sup> In its recent petition asking the Commission to examine universal service subsidies, MFS does not propose to share the LECs' obligation to serve high-cost areas. See Petition of MFS Communications Company, Inc. for a Notice of Inquiry and *En Banc* Hearing at 20 (filed Nov. 1, 1993).

Finally, no party has offered any public policy reason why the Commission should not immediately eliminate one provision of the Commission's access rules -- the requirement to obtain a waiver each time a LEC wants to create new access elements. Only Sprint addressed this requirement, asserting that an average delay of 7.4 months in obtaining a waiver is not overly burdensome to the LECs.<sup>12</sup> It is burdensome to a customer, however, that needs an access element to offer a service to its end users. Moreover, in a competitive market, a carrier that cannot serve a customer's need for more than half a year will lose the business. There is no reasonable justification for retaining that provision.

The Commission should promptly grant USTA's Petition and institute a rulemaking to revise the access rules.

Respectfully submitted,

**The Bell Atlantic Telephone  
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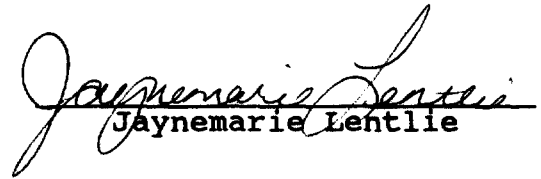
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<sup>12</sup> Sprint at 3.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "Reply Comments of Bell Atlantic" was served this 16th day of November, 1993, by first class mail, postage prepaid, on the parties on the attached list.

  
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